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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,292	05/03/2007	Thomas Rillmann	BOE0005US.NP	6059

26259 7590 03/16/2009
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EXAMINER

HESS, DOUGLAS A

ART UNIT	PAPER NUMBER
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3651

NOTIFICATION DATE	DELIVERY MODE
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03/16/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

poreilly@licataandtyrrell.com

Office Action Summary	Application No.	Applicant(s)	
	10/589,292	RILLMANN, THOMAS	
	Examiner	Art Unit	
	Douglas A. Hess	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/14/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/14/2006</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: USP 5,190,132 Drawing sheet 1 of 3..

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the mouthpiece" in the last line. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 appears to recite duplicate claim language as claim 1.

Claim 14 recites the limitation "the powdered press mass" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 has not been examined against the prior art because it appears that the claim has introduced new elements which are not part of the claimed invention as outlined in claim 1, (claim 14 depends from claim 1). The invention pertains to a conveyor filling device, not to a powdered press mass, a tablet press, and a feed shoe. Claim 14 is confusing since it is unclear how these items are part of the claimed invention.

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 9, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanelle et al. USP 5,190,132.

See the attached marked up drawing figure 1 of Stanelle et al. depicting the claimed features.

Claim Rejections - 35 USC § 103

3. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanelle et al. USP 5,190,132.

Stanelle et al. teaches the claimed invention as outlined above except for the operation of the flap. The applicant's flap pivots to open and close while the flap of Stanelle et al. slides back and forth to open and close. It would have been an obvious matter of design choice as to how one attaches a closable flap to open/close a tube, there are many known options as to how a tube may regulate flow and the mere selection of one these options does not provide a patentable departure over the device of Stanelle et al. Furthermore, the applicant does provide a particular reason why having a pivoting flap is better than another closure method of a flap.

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4. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanelle et al. USP 5,190,132.

Stanelle et al. teach the claimed invention as outlined above except for the sealing ring (to prevent fine materials from leaking outside the guide tube) which is present in the applicant's telescoping sections. Instead Stanelle et al. teach a sealing tube 22 which stretches from top to bottom on the exterior of the guide tube. It would have been an obvious matter of design choice as to how a device is sealed from escaping material and the mere selection of sealing individual sections versus sealing the entire exterior of a tube would be specific to the application at hand and the mere selection of one over the other does not provide a patentable departure from the device of Stanell et al. Furthermore, the mere sealing of telescoping sections is not a new concept.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas A Hess/
Primary Examiner, Art Unit 3651

Douglas A Hess
Primary Examiner
Art Unit 3651

DAH
March 11, 2009